

Roosevelt, Utah.
July 30, 1936.

T. H. Humpherys
State Engineer
Salt Lake City

Re: Dry Gulch Irri. Co. etal vs Indians

Dear Mr. Humpherys:

Your letter is gladly received, not only because your predecessor almost rebuked me perhaps six years ago when I wrote him on this, but because you manifest interest, which is so vital. Pardon my writing the Governor, but I knew him casually, or met him in 1901-02 when I spent two summers at Layton, and have watched with interest his sturdy, cautious and, withal, quite intelligent course in public office. Only with he thought as much of me as I do, in this wholesome respect, manifest for him, even if my side must be quite unnoticed.

I answer today because farm work is looming up, and certain ideas I shall try to express, partly urged within me by your kind letter.

1- Your third paragraph, P-1, states that federal decree required water commissioner appointed by the federal court. My large file on this was burned nearly four years ago, hence I speak from memory, but it was my understanding that in no place in the decree does it state or imply that State of Utah does not have the sole right of distributing the water proved up on, or claimed by anyone for any purpose whatever within its boundaries. In fact does not Judge Johnson's record show that only two of the litigants, Dry Gulch and the Indian office, ever asked him to appoint a commissioner? And do records in his court prove that each year he has made it plain that the appointment was NOT made because of his demand, or of any decree? but wholly because the leading parties appeared and asked him to thus act for them?

2- In last paragraph, P1, you touch the heart of this post-suit business, viz: Indian office objects to admitting that the state has any right to distribute the water. Mr. Post's exposition of their stand, noted by you (not at hand, but remembered somewhat) is only reiteration of this? When I was V. Pres of Dry Gulch, along in 1925-6-7, approximately, for a year or two, the board "got together" with the Indian office, agreed on the man, and that was tantamount to assurance of his appointment. Two or three times the board and the I. office could not agree, and then they agreed, however, to go before the Judge and advise him they agreed to his appointing the man.

3- Please permit my placing special emphasis on one main point, that is: Your letter but confirms the fact that the Indian office cares not who appoints the man so long as it is NOT THE STATE OF UTAH, or in what manner the water is distributed so long as they feel certain the distributor will follow their directions, and give them all the water they can use. As you well note it is impossible to get distribution about which there is not disagreement. Commissioners are only human, and the words U.S. before their names, as this one out here has mostly generally had freely given, makes no more perfect this phase of it.

4- Hence, Mr. Humpherys, you will see my feeling of "danger ahead" is not one whit removed by your much appreciated letter. Federal attorneys, in my humble opinion, have been watching this with utmost satisfaction, as they know that ESTOPEL will play its part (unless it is notably ruled against in some cause or in a statute with which I am not familiar on the grounds that it may not run against a sovereign state?) after the full twenty years shall have passed.

5- Permit me to note the following elementary data, ~~it~~ accurately figured: This reservation was opened to entry in 1905, when several others (with which I am somewhat familiar were thrown open to entry), and in 1904 Indian bureau certified to department of interior that there were 1984 Utes, including all of mixed blood. On this basis of population allotments of land to each Ute was made, and in two divisions, agricultural and grazing, except that grazing was to hold as a unit for the three sub-divisions of Indians for their flocks then and for far off dreams.

Possibly in 1909 the agency was audited, and the Indians could not be made more than 1142. Such gross dishonesty here and elsewhere caused some comment, but nothing was done except in 1913-14 a surplus of Indian lands here was ~~was~~ sold. I published the list for about a year, getting \$55. to \$70. per month, as I remember. In 1905 about 93,000 acres of FARM lands was individually allotted. Indians and officials understood it was to assure each inhabitant 80 acres of good land. In 1923, last time I checked it over at Ft. Duchesne, the total held as farm land was 77,000 acres, of which possibly 60,000 was provided with water at a cost of about \$925,000.

All water was filed on, per state law, and likewise final proofs were made and filed, albeit gross dishonesty flagrantly at hand in making the final proofs, such as plowing furrows down through brush etc., perhaps 10-15 ft. apart, and irrigating, and then certifying as final proofing.

5-B- Distribution of world's population on all lands above ocean level, regardless of character, gives perhaps 16 acres per capita, or 40 people per sq. mile. The U.S. has just passed this world average, they say, and has 41 per sq. mile. Utah still has over 100 acres for each human being.

But as only 1/4 of earth's land is used directly for foods and the like, it is evident that world's population gives, for land used, 4-acres per capita. and, because nearly same ratio of USED land holds in our country, we have even less it would seem. However, our crops must total over 4-acres or vast importations result, and if we reach 5-acre mark there is an overage.

Utah (despite agricultural college figures) has made mighty little above one million acres total of actual crops per annum, or two acres per capita. Our mines and livestock make up some of the shortage, but not all. All livestock in state pays, per 1934 state figures, but 1 1/2% of taxes.

5-C- In view of such data why should an Indian bureau try to hold 75 to 80 acres of real farm land?? OR, if part is marginal (as it is) we may reduce it to 50 acres for each Indian, including all mixed bloods. BUT, with population decreasing, as it has slowly done for 75 years, and IS doing, where is the EQUITY in this? It is upheld by sentimentalists. And in last thirty years an "aristocracy" of mixed blooded people, 1/2 to 1/16 Indian, has been educated and placed in positions of trust. I've seen that at Blackfoot, at Lander, here now as usual, and many in Navajo territory etc. Many are friends of mine, and many I don't want to know. Magnified egos bulge out as they drive fine cars and enjoy life in a snug satisfaction.

6- Federal court decree gave prior right to water for these lands, nearly all, and today effort is still made to USE water on 50,000 acres, farmed almost ~~rep~~ 100% by white people. It is much cheaper than owning land, - to lease these lands. Out here it is a joke how wantonly this water is spread out and is wasted. It is not here and there, but a general habit. Never has it been the desire of the common people to rob the Ute of one iota of his primary right.

Fully realizing that you are not essentially concerned about total acreage, or who uses it, I yet give these ideas and ~~facts~~ facts because information may be of value to you. A.C. Harmston, engineer here, told me yesterday that you're a real engineer, and his judgement is on this pleased me, and causes me to be thus frank.

There is much more to say, Mr. Humpherys. But allow me to note again that this is not personal between me and such men as B.O. Colton, Ray E. Dillman, et al.

No, I have nothing personal, no grudges, no hatred whatever. Of course leaders here know I oppose this manner of doing business. I have been strong enough to become president of the Dry Gulch, but let the other fellow have it, as I've had ample of this public service work for no pay, or a trifle compared with the criticism generated.

It is rather easy for a very few to dominate, especially after a generation of brow-beating such as we have had. Morale is broken down, fortitude is at a low ebb. Gross carelessness demonstrated in Indian office practice is almost duplicated by our whiteman's business along same lines. Of course it should be so because white leaders control in each case.

In conclusion let me say that today, and at all times, the white people have been and are able to throw money away, lots of it. Come and see good illustrations of it in 1936. Nearly 25% of the Dry Gulch stock sold for the spring assessment, and this fall it will possibly be worse. THEREFORE, I must freely advise you that the white man is today able to stand his share of necessary legal procedure to protect his rights. In fact it would be exceedingly salutary if the State of Utah would initiate proceedings and guide the battle to make these bureau men fully acknowledge the fact that UTAH, and only UTAH may distribute water claimed for use within her borders.

Such action, if not taken, means gradual extinction of agriculture here as we have known it, for the present at least, while our good state leading out and appointing the water commissioner, demanding no others have original jurisdiction, would, at this late date, act as a tonic in causing farmers to believe that all is not lost. The federal suit 18 years ago was the result of W.D. Beers appointing Harmston as commissioner, and they could not bluff him. The suit cleared up the question of primary rights, not seriously disputed, but it gave such assurance to federal employes here that we have not since regained any composure. Our state engineers have often taken the view that "let the government and the whites fight it out". Our law plainly makes it a state obligation to defend state rights such as this.

If I met you, and you had time, I'd tell you some of the "whys" in this drama, aye, this tragedy. You know sometimes the tail wags the dog.

Respectfully yours

J. P. May
J. P. May, Roosevelt, Uth.

